



**DEPARTMENT OF DEFENSE**

**BILLING CODE 5001-06**

**Office of the Secretary**

**32 CFR Part 199**

**[DOD-2011-HA-0136]**

**RIN 0720-AB56**

**Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Uniform Health Maintenance Organization (HMO) Benefit - Prime Enrollment Fee Exemption for Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule creates an exception to the usual rule that TRICARE Prime enrollment fees are uniform for all retirees and their dependents and responds to public comments received to the proposed rule published in the Federal Register on June 7, 2013. Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents are part of the retiree group under TRICARE rules. In acknowledgment and appreciation of the sacrifices of these two beneficiary categories, the Secretary of Defense has elected to exercise his authority under the United States Code to exempt Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled in TRICARE Prime from paying future increases to the TRICARE Prime annual enrollment fees. The Prime beneficiaries in these categories have made significant sacrifices for our country and are entitled to special recognition and benefits for their sacrifices. Therefore, the beneficiaries in these two TRICARE beneficiary categories who enrolled in

TRICARE Prime prior to 10/1/2013, and those since that date, will have their annual enrollment fee frozen at the appropriate fiscal year rate: FY2011 rate \$230 per single or \$460 per family, FY2012 rate \$260 or \$520, FY2013 rate \$269.38 or \$538.56, or the FY2014 rate \$273.84 or \$547.68. The future beneficiaries added to these categories will have their fee frozen at the rate in effect at the time they are classified in either category and enroll in TRICARE Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in TRICARE Prime and there is not a break in enrollment. The fee charged for the dependent(s) of a Medically Retired Uniformed Services Member would not change if the dependent(s) was later re-classified a Survivor.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ralph (Doug) McBroom, (703) 681-0039, Defense Health Agency, TRICARE Policy and Benefits Office. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction and Background**

#### **A. Overview**

Title 10 Section 1097(e) of the United States Code says in part, “The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided by this section.” This statute was implemented in Title 32 Code of Federal Regulations section 199.18(c), (32 CFR 199.18(c)), which notes that the enrollment fees shall be published annually and, as applicable, uniformly applied to TRICARE beneficiaries. There is no

enrollment fee for active duty dependents. The annual enrollment fee for retirees and their dependents since the program began was \$230 per person or \$460 per family until FY 2012. In FY 2012, the Department of Defense implemented a modest increase (\$2.50 per person or \$5.00 per family per month) in the enrollment fees for retirees and their dependents to \$260 per person or \$520 per family, followed by annual indexing. For FY 2013, the fee was increased per the National Defense Authorization Act (NDAA) for FY 2012 using the same Cost of Living Adjustment (COLA) percentage (3.6%) used to increase military retired pay. The fee was adjusted again in FY2014 and FY2015 using the COLA percentage for those respective fiscal years. Future increases will be calculated per the NDAA for FY 2012.

Although the increases have been modest, the Secretary of Defense will exempt from future enrollment fee increases the Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled in TRICARE Prime. (These two beneficiary categories are part of the retiree group under TRICARE rules.) The enrollment fees for the currently enrolled beneficiaries in these categories will remain at their current rate. The future beneficiaries added to these categories will have their fee frozen at the rate in effect at the time they are classified in either category and enroll in TRICARE Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in TRICARE Prime and there is not a break in enrollment. This rule creates an exception to the “uniform rate for all retirees” general rule and is being made to acknowledge, and in appreciation of, the sacrifices made by these unique members of the retiree population of TRICARE beneficiaries. This final rule articulates and implements that change. It provides that as an exception to the requirement for uniformity within the group of retirees and their dependents, the Secretary of Defense may exempt Active Duty Deceased Sponsors and

Medically Retired Uniformed Services Members and their Dependents from paying future increase in enrollment fees that occur on or after the effective date of this final rule.

The exemption will apply only to the beneficiaries in the two categories specified above and only if they enroll in TRICARE Prime. If a beneficiary in one of the categories does not enroll in TRICARE Prime, but later elects to enroll, their rate will be frozen at the rate in effect at the time of enrollment. If a beneficiary dis-enrolls from TRICARE Prime and later re-enrolls, their rate will be frozen at the rate in effect at re-enrollment. The fee charged for a dependent of a Medically Retired Uniformed Services Member will not change if the dependent was later re-classified a Survivor and remained enrolled in Prime.

#### B. Public Comments

We received two online comments. Both supported the rule change to allow Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents, who are enrolled in Prime, to be exempt from future increases in TRICARE Prime enrollment fees.

#### Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small entities. This final rule will have none of those effects. Nor does it

establish information collection requirements under the Paperwork Reduction Act. Nor for purposes of Executive Order 13132, does it have federalism implications affecting States.

**List of Subjects in 32 CFR Part 199**

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

**PART 199—[AMENDED]**

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.18 is amended by adding at the end of paragraph (c)(1) a new sentence to read as follows:

**§ 199.18 Uniform HMO Benefit.**

\* \* \* \* \*

(c) Enrollment fee under the uniform HMO benefit. (1) \* \* \* As an exception to the requirement for uniformity within the group of retirees and their dependents, the Assistant Secretary of Defense (Health Affairs) may exempt Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents from future increases in enrollment fees.

\* \* \* \* \*

**Dated: September 24, 2014.**

Aaron Siegel,  
Alternate OSD Federal Register Liaison Officer,  
Department of Defense.

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